

1 HB366
2 149829-1
3 By Representatives Johnson (W), Rich, Sanderford, Patterson,
4 Harper, Hill, Greer, Treadaway and McCutcheon
5 RFD: Constitution, Campaigns and Elections
6 First Read: 28-FEB-13

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, specific procedures
9 govern the recount of election ballots in general
10 elections. However, there are no procedures
11 provided in existing law that govern the recount of
12 election ballots in primary elections.

13 This bill would provide an automatic recount
14 in certain primary elections if a candidate is
15 defeated by no more than one-half of one percent of
16 the votes cast for the office as certified by the
17 appropriate election officer.

18 This bill would authorize a candidate to
19 waive the recount process within a specified time
20 frame and would provide for the payment of costs
21 associated with the recount.

22 This bill would also specify minimum
23 safeguards to be observed during the recount and
24 would provide that if the recount results declare a
25 winner other than the person initially certified, a
26 person may contest the election.

1 A BILL
2 TO BE ENTITLED
3 AN ACT
4

5 Relating to elections; to amend Section 17-16-20,
6 Code of Alabama, 1975, relating to recounts in general
7 elections, to provide a reference to volunteers serving as
8 polling officials; to provide for an automatic recount in
9 certain primary elections; to provide for the waiver of a
10 recount by a candidate; to provide for the payment of costs
11 associated with a recount; to provide minimum safeguards to be
12 observed during a recount; and to provide for an election
13 contest after recount results are certified.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Section 17-16-20, Code of Alabama, 1975,
16 is amended to read as follows:

17 "§17-16-20.

18 "(a) When, in a general election, the election
19 returns for any public office, including a judicial office,
20 reflect that a candidate is defeated or any ballot statewide
21 measure is defeated by not more than one half of one percent
22 of the votes cast for the office, or the ballot measure, as
23 certified by the appropriate election officer, a recount shall
24 be held unless the defeated candidate submits a written waiver
25 for the recount as provided herein:

26 "(1) In the case of an election for any federal,
27 state, circuit, or district office, or the state Senate, state

1 House of Representatives, or any other office that is not a
2 county office, a written waiver for a recount may be submitted
3 to the Secretary of State within 24 hours after the
4 certification of the results of the election. Upon receipt of
5 the waiver, the Secretary of State shall immediately order the
6 recount to be cancelled.

7 "(2) In the case of an election for any county
8 office, a written waiver for a recount may be submitted to the
9 judge of probate within 24 hours after the certification of
10 the results of the election. Upon receipt of the waiver, the
11 judge of probate shall immediately order the recount to be
12 cancelled.

13 "(b) Any recount held pursuant to subsection (a)
14 shall be commenced within 72 hours after certification of the
15 results of a county election by the county canvassing board
16 and within 72 hours after certification of the results of a
17 state election by the state canvassing board.

18 "(c) The canvassing board shall obtain the polling
19 officials necessary to conduct the recount as required by this
20 section to perform a recount of the vote. ~~The~~ If they are not
21 volunteers, polling officials shall be compensated in the same
22 manner and at the same rate as provided by law for vote
23 tabulation activities in an election that does not result in a
24 recount.

25 "(d) The expenses of a recount conducted pursuant to
26 subsection (a) shall be a state charge if the recount is held
27 for an election for a federal, state, circuit, or district

1 office, or the state Senate, state House of Representatives,
2 or any other office that is not a county office. The expenses
3 of a recount conducted pursuant to subsection (a) shall be a
4 county charge if the recount is held for an election for
5 county office.

6 "(e) If a recount is conducted pursuant to
7 subsection (a), the appropriate canvassing board or authority
8 shall amend the initial certification of the election to
9 reflect the results of the recount. The results of the recount
10 shall be posted as the initial count and transmitted to the
11 Secretary of State within 24 hours.

12 "(f) If a recount is conducted pursuant to
13 subsection (a), the time limit for contesting the election
14 shall be suspended until the vote is recertified, reflecting
15 the results of the recount.

16 "(g) Costs shall be kept to a minimum by using
17 county personnel or volunteer workers whenever possible. The
18 recount shall be conducted under the supervision of a trained
19 and certified poll official. Representatives of opposing
20 interests shall be given at least 24 hours' notice and shall
21 be invited to participate in the recount.

22 "(h) The recount shall be conducted as simply as the
23 type of equipment and local conditions permit provided that
24 the following minimum safeguards are observed. The voted
25 ballot container or envelope holding the ballots shall be
26 delivered unopened, and still sealed in the original
27 container, to the inspector in charge of the recount. A

1 representative of the authority having custody of the ballots
2 shall be present during the recount. The recount shall consist
3 of reading the ballots through the counter. Any ballot that
4 was counted in the original election, but is rejected by the
5 counter in the recount, shall be counted by hand.

6 Representatives of opposing interests may participate in the
7 hand recount, and any unresolved disputes over the
8 interpretation of the intent of the voter may be appealed to
9 the canvassing board.

10 "(i) When the recount has been completed, the
11 ballots shall be returned to their container along with a
12 printout of the recount results. The ballot container shall be
13 sealed and signed by the inspector conducting the recount and
14 by the representative of the authority having custody of the
15 ballots.

16 "(j) If the results of a recount conducted under
17 subsection (a) name as a winner a person other than the person
18 initially certified, the outcome shall constitute grounds for
19 an election contest as now prescribed by law."

20 Section 2. Article 2A, comprised of Section
21 17-13-60, is added to the Code of Alabama 1975, to read as
22 follows:

23 Article 2A.

24 §17-13-60. Recounts of Primary Elections.

25 (a) In a primary election, if the election returns
26 for any public office, including a judicial office, reflect
27 that a candidate is defeated by no more than one-half of one

1 percent of the votes cast for the office, as certified by the
2 appropriate election officer, a recount shall be held unless
3 the defeated candidate submits a written waiver for the
4 recount.

5 (1) In an election for any federal, state, circuit,
6 or district office, or the state Senate, state House of
7 Representatives, or any other office that is not a county
8 office, a written waiver for a recount may be submitted to the
9 appropriate state executive committee within 24 hours after
10 the certification of the results of the election. Upon receipt
11 of the waiver, the executive committee shall immediately order
12 the recount to be cancelled.

13 (2) In an election for any county office, a written
14 waiver for a recount may be submitted to the appropriate
15 county executive committee within 24 hours after the
16 certification of the results of the election. Upon receipt of
17 the waiver, the county executive committee shall immediately
18 order the recount to be cancelled.

19 (b) Any recount held pursuant to this section shall
20 be commenced within 72 hours after declaration of the results
21 of the election pursuant to Section 17-13-18.

22 (c) The appropriate executive committee chairperson,
23 or his or her designee, shall obtain the polling officials
24 necessary to conduct the recount as required by this section
25 to perform a recount of the vote. If they are not volunteers,
26 polling officials shall be compensated in the same manner and

1 at the same rate as provided by law for vote tabulation
2 activities in an election that does not result in a recount.

3 (d) The expenses of a recount conducted pursuant to
4 this section shall be charged to the state if the recount is
5 held for an election for a federal, state, circuit, or
6 district office, or the state Senate, state House of
7 Representatives, or any other office that is not a county
8 office. The expenses of a recount conducted pursuant to this
9 section shall be charged to the county if the recount is held
10 for an election for county office.

11 (e) If a recount is conducted pursuant to this
12 section, the appropriate executive committee or authority
13 shall amend the initial certification of the election to
14 reflect the results of the recount. The results of the recount
15 shall be posted in the same manner as the initial count and
16 transmitted to the Secretary of State within 24 hours.

17 (f) If a recount is conducted pursuant to this
18 section, the time limit for contesting the election shall be
19 suspended until the vote is recertified, reflecting the
20 results of the recount.

21 (g) Recount costs shall be kept to a minimum by
22 using county personnel or volunteer workers whenever possible.
23 A recount shall be conducted under the supervision of a
24 trained and certified poll official. Representatives of the
25 candidates involved in a recount shall be given at least 24
26 hours' notice and shall be invited to participate in the
27 recount.

1 (h) A recount shall be conducted as simply as the
2 type of equipment and local conditions permit, provided that
3 all of the following minimum safeguards are observed:

4 (1) The voted ballot container or envelope holding
5 the ballots shall be delivered unopened, and still sealed in
6 the original container, to the inspector in charge of the
7 recount.

8 (2) A representative of the authority having custody
9 of the ballots shall be present during the recount.

10 (3) The recount shall consist of reading the ballots
11 through the counter.

12 (4) Any ballot that was counted in the original
13 election, but is rejected by the counter in the recount, shall
14 be counted by hand.

15 (5) Representatives of the opposing candidates
16 involved in the recount may participate in the hand recount,
17 and any unresolved disputes over the interpretation of the
18 intent of the voter may be appealed to the appropriate
19 executive committee.

20 (i) When a recount has been completed, the ballots
21 shall be returned to their container along with a printout of
22 the recount results. The ballot container shall be sealed and
23 signed by the inspector conducting the recount and by the
24 representative of the authority having custody of the ballots.

25 (j) If the results of a recount conducted under this
26 section declare as a winner a person other than the person

1 initially certified, the outcome shall constitute grounds for
2 an election contest as now prescribed by law.

3 (k) Any recount requested by petition shall be
4 governed by Section 17-16-21.

5 Section 3. This act shall become effective on the
6 first day of the third month following its passage and
7 approval by the Governor, or its otherwise becoming law.